

Argentina

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Freedom of the Press

In 2013, tensions persisted between the government of President Cristina Fernández de Kirchner and critical media outlets. In October, the government's four-year battle with the media conglomerate Clarín Group climaxed with a Supreme Court ruling declaring the legality of the controversial 2009 Media Law, which will force Clarín to divest many of its assets. More broadly, the government's hostility toward critical media outlets has antagonized a wary press corps and hindered the public's ability to receive fair and accurate information.

Argentina's constitution provides for freedom of the media and of expression, and restricts Congress from passing legislation that would affect those freedoms. In a positive step, libel and slander offenses for journalists were decriminalized in 2009 and are no longer punishable by imprisonment. However, fines can still be issued in civil cases. In 2012, the head of the Federal Revenue Administration, Ricardo Echegaray, sued journalists Matías Longoni and Luis Majul for almost \$275,000 each in separate cases, claiming they had sullied his reputation. Echegaray's case against Majul was dismissed in January 2013, while the suit against Longoni continued without a verdict through the end of the year. Positively, in August the Supreme Court ruled that blogger Jorge Alberto Warley could not be held liable for defamation after he was sued by Ariel Bernardo Sujarchuk, an official at the University of Buenos Aires, for republishing a piece from another author critical of Sujarchuk on his blog. The ruling was considered a victory for intermediaries hosting critical and potentially controversial content online.

In 2011, Congress passed two contentious pieces of legislation related to the media. The first, an amendment to the antiterrorism law, increased penalties for terrorist acts. An interpretation of the law by the head of Argentina's Financial Investigations Unit stated that news outlets could be held accountable under the expanded clauses if they published material that "terrorizes" the public. Although the government has stated that the law is not intended for use against the media—and it has not been used against a media outlet or journalist to date—it nevertheless remains a concern. The second law designated newsprint as a commodity of public interest, making it subject to government regulation. The only manufacturer of newsprint in Argentina is Papel Prensa, jointly owned by the state (with a stake of about 27.5 percent) and the media companies Clarín and La Nación, both of which are often critical of the government. Under the law, the government can increase its stake in the company if it fails to produce enough newsprint to satisfy the demand of all newspapers in the country, which could lead to eventual government control of the newsprint supply. In May 2013, progovernment legislators introduced a bill that would allow the government to expropriate an additional 24 percent of Papel Prensa, an amount sufficient to give the government a majority interest in the company. The bill had not been passed at year's end.

In October 2013, the Argentine Supreme Court upheld the legality of the controversial 2009 Law on Audiovisual Communication Services, also known as the Ley de Medios (Media Law), in a 6–1 ruling. The law aims to diversify ownership in the heavily concentrated broadcast sector. Many press analysts and international bodies agree with the law's basic goals, but suspicions that the law would be used against the government's media opponents spurred lawsuits that initially hindered its implementation. Indeed, a report by the Inter-American Press Association (IAPA) showed that far from promoting diversity of viewpoints, 96 percent of the new media licenses granted since the law's introduction went to government or progovernment entities. The overall legislation took effect in September 2010, but Article 161, which would force certain media companies—most notably Clarín—to relinquish licenses and sell off assets, remained

suspended pending a Supreme Court ruling on a challenge filed by Clarín that year. In its October decision, the Supreme Court ruled that “Clarín’s freedom of expression is not affected by the law’s implementation, because media decentralization and frequency allocation do not endanger the group’s economic viability.” In accordance with the ruling and the law’s cap on the number of broadcast licenses one company may own, Clarín presented a plan for its division into six companies in November. The effects of the shift on freedom of expression as well as the concrete impact on Clarín’s operations remained unclear as of year’s end.

Argentina remains one of the few countries in the Americas without a federal access to information law, despite numerous attempts to pass one in Congress. However, some provinces and municipalities do have such legislation in place. The lack of federal legislation is particularly problematic given the government’s persistent manipulation of key economic and other statistics—a pattern that drew the condemnation of the International Monetary Fund in December 2013. In the absence of reliable official statistics, journalists often rely on estimates from private economists and consultants. In October 2013, the Supreme Court rescinded some of the nearly \$125,000 in fines issued by the Ministry of Commerce in 2011 to 11 economists and consultants who published their own accounts of the real inflation rate. In September, a judge had charged the commerce minister with abuse of authority over the episode. However, three of the economists remained under investigation on criminal charges of “defrauding commerce and industry.”

The level of hostility between the government and oppositional outlets has created a highly polarized media climate, split between government supporters and opponents that fight bitterly in the press. Fernández has held few official press conferences; instead, she has made use of *cadenas*, or nationwide presidential addresses that preempt programming on all radio and television stations. In some cases she has used the *cadenas* to attack journalists. By law, *cadenas* are only valid in order to communicate with the public in times of crisis. The president is also an active user of social media, especially through her Twitter account, @CFKArgentina, which she often uses to attack critical media and the legitimacy of their reporting. The government continues to make use of the phrase “Clarín mente” (“Clarín lies”) in its official advertising. In August 2013, the president reproached the media for using “bullets of ink” to “overthrow elected governments,” and called journalist Jorge Lanata an “assassin” and “Magnetto’s media hitman” (referring to Héctor Magnetto, the owner of Clarín) after he published reports accusing her of corruption. Fernández’s aggressive tone against the media is echoed by members of her cabinet and party. Also in August, TV Pública (formerly Canal 7) anchor Juan Miceli was removed from his broadcast after an interview in which his line of questioning displeased a congressman from the ruling party. He was subsequently attacked on air by progovernment journalists and summarily dismissed.

Extreme violence against members of the press is very rare in Argentina, and no journalists were murdered in 2013. However, the Argentine Journalism Forum (FOPEA) registered 194 attacks against the media—including threats, assaults, attacks on media facilities, confiscation of equipment, and obstruction of coverage—for the year, an increase of 12.7 percent over 2012. In a number of instances, reporters were attacked as they tried to cover breaking news stories or demonstrations. In April, Buenos Aires police fired on protesters and journalists with rubber bullets at close range during a protest at a hospital, injuring 50 people, including at least 5 journalists. In an official press conference, Buenos Aires Minister of Public Security Guillermo Montenegro blamed the journalists for “being at the spot where the incidents were taking place.” Attacks against journalists were also widespread during a nationwide police strike in December and the looting that followed. Protesting police reportedly threatened and beat reporters, confiscated equipment, and forced broadcasters to suspend coverage. One journalist, Juan Pablo Suárez of the website *Última Hora*, was arrested on December 9 in the northern city of Santiago del Estero on charges of sedition after he refused to hand over footage of a police officer being arrested; he was released nine days later, after a media campaign for his release.

Attacks also took place in reprisal for journalists’ reporting. In March, a car belonging to a journalist was

set on fire in Salta province after he reported on the local drug trade. In April, a local radio station's office in the northern Formosa province was set on fire after the station's owner, Aníbal Palma, reported on corruption by the mayor of the town of Ingeniero Juárez; Palma said he had received threats from the mayor prior to the attack. In September, another radio station in Formosa was firebombed after the station's owner, Luis Orlando Fernández, collaborated on a series regarding water shortages in the province. Also in September, a local journalist from Misiones province, Daniel Ortigoza, was assaulted and threatened by the mayor of Puerto Esperanza, Alfredo Gruber, as well as by Gruber's wife and brother, after speaking with the family of a victim in a politically charged murder case.

Argentina has a large private media sector, with more than 150 daily newspapers, hundreds of commercial radio stations, and dozens of television stations. However, private ownership is concentrated, with Clarín Group commanding a significant share of the print, broadcast, and internet service markets; this will change with the group's planned divestment. Meanwhile, many radio stations operate on temporary licenses pending regulatory reform. Public media is less influential; the country's largest public television station is TV Pública, which commands a much lower audience share than private competitors. Public radio has also declined in importance since the privatization of the industry in 1980.

The internet is widely available, with nearly 60 percent of Argentines accessing the medium in 2013. The internet is generally free from official surveillance and censorship, and Argentines are able to express themselves online and access most desired content. There have been some cases of the government taking down or blocking access to websites that facilitate illegal commercial activity or publish copyrighted or defamatory material, but the practice is not pervasive.

As in past years, the government was accused in 2013 of manipulating the distribution of official advertising to limit free speech, a form of "soft censorship" that had been institutionalized under the administration of former president Néstor Kirchner, Fernández's late husband. The problem has persisted despite a 2007 Supreme Court ruling that "the government may not manipulate advertising by giving it to or taking it away from media outlets on the basis of discriminatory criteria." This jurisprudence was reiterated in the court's October ruling on the Media Law, which called for a transparent and non-discriminatory policy on the distribution of official government advertising contracts. In June, moreover, a federal appeals court ruled that the government had discriminated against Clarín-owned Channel 13 in its distribution of advertising, and ordered the government to "equitably and proportionally" distribute its advertising between the five major television stations in Buenos Aires. However, in 2013 the government once again reduced its advertising budget for the country's largest and most critical newspapers: *Clarín*, *La Nación*, *Perfil*, and *El Cronista*, among others, even while increasing its overall budget by 60 percent, to \$215 million. In addition, in February the government began putting pressure on private sector advertisers as well, forbidding supermarkets and sellers of home appliances from advertising in the media as a way of reinforcing a government-mandated price freeze; this restriction lasted until December. IAPA estimated that this reduced advertising revenues by 20 percent, posing a severe hardship for the independent press.

2014 Scores

Press Status

Partly Free

Press Freedom Score

(0 = best, 100 = worst)

Legal Environment

(0 = best, 30 = worst)

14

Political Environment

(0 = best, 40 = worst)

21

Economic Environment

(0 = best, 30 = worst)

16